

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:07-HC-2198-FL

UNITED STATES OF AMERICA)	
)	
Petitioner,)	
)	
v.)	MOTION FOR VOLUNTARY
)	DISMISSAL WITH LEAVE
)	OF COURT
WILLIAM THORNS,)	
)	
Respondent.)	

Petitioner, the United States of America, by and through the United States Attorney for the Eastern District of North Carolina, pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure, hereby moves the Court to voluntarily dismiss, the certification of a sexually dangerous person against Respondent, William Thorns.

A settlement agreement, subject to the Court's approval, is attached hereto as Exhibit A, which details the manner in which the parties propose that this matter be concluded. Pursuant to the terms of the settlement agreement, the parties jointly request that the Court conduct a hearing to inquire of counsel for the United States, the Respondent, and Respondent's counsel whether each of them personally affirms in open court that the terms and conditions of the settlement agreement have been

entered and undertaken knowingly and voluntarily after having adequate opportunity to seek counsel.

WHEREFORE, Petitioner requests that the Court allow Petitioner to voluntarily dismiss the certification of a sexually dangerous person against Respondent, William Thorns, subject to the above-mentioned terms.

Respectfully submitted this the 14th day of September, 2011.

THOMAS G. WALKER
United States Attorney

By: /s/ Michael G. James
MICHAEL G. JAMES
Attorney for Defendants
Assistant United States Attorney
Civil Division
310 New Bern Avenue, Suite 800
Raleigh, NC 27601-1461
Telephone: (919) 856-4530
Facsimile: (919) 856-4821
E-Mail: mike.james@usdoj.gov
N.Y. Bar No. 2481414

CERTIFICATE OF SERVICE

I do hereby certify that a copy of the foregoing has been served upon Sonya M. Allen, Office of the Public Defender, counsel for the respondent, by electronically filing the foregoing with the Clerk of Court this date, September 14, 2011, using the CM/ECF system which will send notification of such filing above.

/s/ Michael G. James
MICHAEL G. JAMES
Assistant United States Attorney
Civil Division
310 New Bern Avenue, Suite 800
Raleigh, NC 27601-1461
Telephone: (919) 856-4530
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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:07-HC-2198-FL

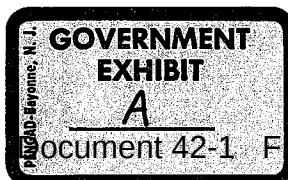
UNITED STATES OF AMERICA,)	
Petitioner,)	
)	
v.)	SETTLEMENT AGREEMENT
)	
WILLIAM THORNS,)	
Respondent.)	

Petitioner, the United States of America, by and through the United States Attorney for the Eastern District of North Carolina, and Respondent, William Thorns, by and through his counsel of record, Sonya M. Allen, have agreed that this matter should be concluded in accordance with terms and conditions of this agreement as follows:

1. This agreement constitutes the full and complete record of the agreement of this matter. There are no other terms of this agreement in addition to or different from the terms contained herein.

2. Respondent admits and stipulates that the United States lawfully certified Respondent as a sexually dangerous person under the Adam Walsh Act, as codified in 18 U.S.C. § 4248 pursuant to procedures established in 18 U.S.C. § 4248(a) and that said statute was upheld as constitutional in United States v. Comstock, 130 S.Ct. 1949 (2010), and again on remand to the Fourth Circuit of Appeals, in United States v. Comstock, 627 F.3d 513 (4th Cir. 2010), and that based on the above established procedures his release from imprisonment was stayed on October 29, 2007.

3. Respondent admits and stipulates that the criminal judgment against him in the matter of United States of America v. William Thorns, in the United States District Court for the Central District of California, Docket No. CR01-00959-SVW, on January 16, 2003, for possession with intent to distribute cocaine base, in



violation of 2 U.S.C. § 841(a)(1), imposed upon him a five (5) year term of supervised release, and that the judgment ordered that the term of supervised release was to be served "upon release from imprisonment." Respondent admits and stipulates that, by the operation of law defined by 18 U.S.C. § 4248, his "release" from imprisonment was "stayed," and that, consequently, his term of supervised release has not commenced. See e.g. David H. Tobey v. United States, Civil Action No. DKC 10-1358 (Chasanow, Judge)(D. Md.); United States v. Marvin Vigil, Criminal No. 1:99-CR-509-LH (Hansen, Judge). A copy of the criminal judgment is attached to the proposed motion to dismiss as Exhibit B.

4. Respondent agrees and promises that, in consideration of the United States' agreement to voluntarily dismiss this action, he will not collaterally attack the order of supervised release contained in the criminal judgment against him.

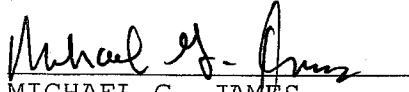
5. Petitioner agrees and promises that, in consideration of Respondent's admissions and stipulations set out in Paragraphs 2 through 3 above and Respondent's agreements and promise in Paragraph 4 above, the United States will file a motion under Rule 41 of the Federal Rules of Civil Procedure asking the Court to dismiss this action and to lift the stay on Respondent's release from imprisonment.

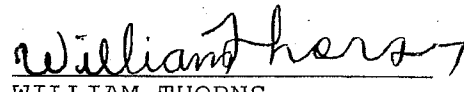
6. Petitioner and Respondent jointly request that the Court conduct a hearing to inquire of counsel for the United States, Respondent, and Respondent's counsel whether each of them personally affirms in open court that the terms and conditions of this settlement agreement have been entered and undertaken knowingly and voluntarily after having had adequate opportunity to seek counsel.

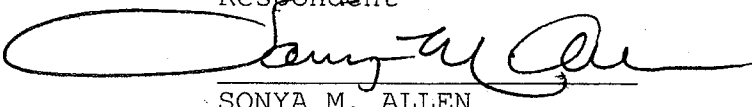
Respectfully submitted on this the 13th day of September,
2011.

THOMAS G. WALKER
UNITED STATES ATTORNEY

BY:


MICHAEL G. JAMES
Assistant U.S. Attorney


WILLIAM THORNS
Respondent


SONYA M. ALLEN
Attorney for Respondent

APPROVED, this _____ day of _____, 2011.

LOUISE W. FLANAGAN
Chief United States District Judge

JAN 17 2003

United States District Court
Central District of California

Closed _____
JS-5/JS-6 _____
JS-2/JS-3 _____
Scan Only _____

UNITED STATES OF AMERICA

Docket No. CR 01-00959-SVW

Defendant William Thorns

Social Security No. [REDACTED]

Willie Thorns; William Thorns, Jr.; William Thorn;
akas: Kevin Stitt; Will Thorns

Residence Metropolitan Detention Center

Mailing Address [REDACTED]

Address 535 N. Alameda Street

Los Angeles, CA 90012

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government, the defendant appeared in person on this date.

MONTH	DAY	YEAR
01	13	2003

COUNSEL

☒ WITH COUNSEL

Gregory Nicolaysen, Appointed

(Name of Counsel)

PLEA

☒ GUILTY, and the court being satisfied that there is a factual basis for the plea.

☐

NOLO
CONTENDRE

☐

NOT
GUILTY

FINDING

There being a finding/verdict of ☒ GUILTY, defendant has been convicted as charged of the offense(s) of:
possession with intent to distribute cocaine base in violation of Title 21 U.S.C. Section 841(a)(1) as charged in count 21 of the indictment.

JUDGMENT
AND PROB/
COMM
ORDER

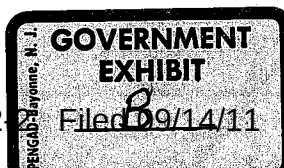
The Court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the Court, the Court adjudged the defendant guilty as charged and convicted and ordered that: Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a term of:

eighty-four (84) months on count 21 of the indictment.

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of five (5) years under the following terms and conditions:

- 1) The defendant shall comply with the rules and regulations of the U. S. Probation Office and General Order 318;
- 2) The defendant shall participate in outpatient substance abuse treatment and submit to drug and alcohol testing, as instructed by the Probation Officer. The defendant shall abstain from using illicit drugs, alcohol, and abusing prescription medications during the period of supervision; and
- 3) The defendant shall participate in a psychological/psychiatric counseling and/or a sex offender treatment program, which may include inpatient treatment as approved and directed by the Probation Officer. The defendant shall abide by all rules, requirements and conditions of such program, including submission to risk assessment evaluation(s) and physiological testing, such as polygraph, plethysmography, and Abel testing and shall take all prescribed medication; and
- 4) During the period of community supervision the defendant shall pay the special assessment in accordance with this judgment's orders pertaining to such payment.

Pursuant to Section 5E1.2(e) of the Guidelines, all fines are waived as it is found that the defendant does not have the ability to pay a fine.



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It is ordered that the defendant shall pay to the United States a special assessment of \$100.00, which is due immediately.

The Court informs the defendant of his right to appeal.

The Court recommends imprisonment in a Southern California facility with a 500 hour drug treatment program.

In addition to the special conditions of supervision imposed above, it is hereby ordered that the Standard Conditions of Probation and Supervised Release within this judgment be imposed. The Court may change the conditions of supervision, reduce or extend the period of supervision, and at any time during the supervision period or within the maximum period permitted by law, may issue a warrant and revoke supervision for a violation occurring during the supervision period.

☐ This is a direct commitment to the Bureau of Prisons, and the Court has NO OBJECTION should the Bureau of Prisons designate defendant to a Community Corrections Center.

1/16/03
Date


U. S. District Judge/Magistrate Judge

STEPHEN V. WILSON

It is ordered that the Clerk deliver a copy of this Judgment and Probation/Commitment Order to the U.S. Marshal or other qualified officer.

Sherri R. Carter, Clerk

1/16/03
Filed Date

By 



The defendant shall comply with the standard conditions that have been adopted by this court (set forth below). The defendant shall comply with the additional conditions on the attached page(s) pursuant to General Orders 318 and 01-05.

STATUTORY PROVISIONS PERTAINING TO PAYMENT AND COLLECTION OF FINANCIAL SANCTIONS

The defendant shall pay interest on a fine or restitution of more than \$2,500, unless the court waives interest or unless the fine or restitution is paid in full before the fifteenth (15th) day after the date of the judgment pursuant to 18 U.S.C. §3612(f)(1). Payments may be subject to penalties for default and delinquency pursuant to 18 U.S.C. §3612(g). Interest and penalties pertaining to restitution, however, are not applicable for offenses completed prior to April 24, 1996.

If all or any portion of a fine or restitution ordered remains unpaid after the termination of supervision, the defendant shall pay the balance as directed by the United States Attorney's Office. 18 U.S.C. §3613.

The defendant shall notify the United States Attorney within thirty (30) days of any change in the defendant's mailing address or residence until all fines, restitution, costs, and special assessments are paid in full. 18 U.S.C. §3612(b)(1)(F).

The defendant shall notify the Court through the Probation Office, and notify the United States Attorney of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay a fine or restitution, as required by 18 U.S.C. §3664(k). The Court may also accept such notification from the government or the victim, and may, on its own motion or that of a party or the victim, adjust the manner of payment of a fine or restitution-pursuant to 18 U.S.C. §3664(k). See also 18 U.S.C. §3572(d)(3) and for probation 18 U.S.C. §3563(a)(7).

Payments shall be applied in the following order:

1. Special assessments pursuant to 18 U.S.C. §3013;
2. Restitution, in this sequence:
 - Private victims (individual and corporate),
 - Providers of compensation to private victims,
 - The United States as victim;
3. Fine;
4. Community restitution, pursuant to 18 U.S.C. §3663(c); and
5. Other penalties and costs.

SPECIAL CONDITIONS FOR PROBATION AND SUPERVISED RELEASE

As directed by the Probation Officer, the defendant shall provide to the Probation Officer: (1) a signed release authorizing credit report inquiries; (2) federal and state income tax returns or a signed release authorizing their disclosure and (3) an accurate financial statement, with supporting documentation as to all assets, income and expenses of the defendant. In addition, the defendant shall not apply for any loan or open any line of credit without prior approval of the Probation Officer.

The defendant shall maintain one personal checking account. All of defendant's income, "monetary gains," or other pecuniary proceeds shall be deposited into this account, which shall be used for payment of all personal expenses. Records of all other bank accounts, including any business accounts, shall be disclosed to the Probation Officer upon request.

The defendant shall not transfer, sell, give away, or otherwise convey any asset with a fair market value in excess of \$500 without approval of the Probation Officer until all financial obligations imposed by the Court have been satisfied in full.

STANDARD CONDITIONS OF PROBATION AND SUPERVISED RELEASE

While the defendant is on probation or supervised release pursuant to this judgment:

1. The defendant shall not commit another Federal, state or local crime;
2. the defendant shall not leave the judicial district without the written permission of the court or probation officer;
3. the defendant shall report to the probation officer as directed by the court or probation officer and shall submit a truthful and complete written report within the first five days of each month;
4. the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
5. the defendant shall support his or her dependants and meet other family responsibilities;
6. the defendant shall work regularly at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons;
7. the defendant shall notify the probation officer within 72 hours of any change in residence or employment;
8. the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
9. the defendant shall not frequent places where controlled substances are illegally sold, used, distributed or administered;
10. the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony unless granted permission to do so by the probation officer;
11. the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
12. the defendant shall notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
13. the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
14. as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics, and shall permit the probation officer to make such notifications and to conform the defendant's compliance with such notification requirement;
15. the defendant shall not possess a firearm or other dangerous weapon;
16. the defendant shall, upon release from any period of custody, report to the probation officer within 72 hours.

These conditions are in addition to any other conditions imposed by this judgment.

RETURN

I have executed the within Judgment and Commitment as follows:

Defendant delivered on _____ to _____
Defendant noted on appeal on _____
Defendant released on _____
Mandate issued on _____
Defendant's appeal determined on _____
Defendant delivered on _____ to _____
at _____

the institution designated by the Bureau of Prisons, with a certified copy of the within Judgment and Commitment.

United States Marshal

By _____

Date

Deputy Marshal

CERTIFICATE

I hereby attest and certify this date that the foregoing document is a full, true and correct copy of the original on file in my office, and in my legal custody.

Clerk, U.S. District Court

By _____

Filed Date

Deputy Clerk

NOTICE PARTY SERVICE LIST

Case No. CR01-959-SW Case Title USA -v- William Thorns
 Filed Date 1-16-03 Title of Document Judgment & Commitment order

<input type="checkbox"/>	Atty Stlmnt Officer
<input type="checkbox"/>	BAP (Bankruptcy Appellate Panel)
<input type="checkbox"/>	Beck, Michael J (Clerk, MDL Panel)
<input type="checkbox"/>	BOP (Bureau of Prisons)
<input type="checkbox"/>	Calderon, Arthur - Warden, San Quentin
<input type="checkbox"/>	CAAG (California Attorney General's Office - Keith Borjon, L.A. Death Penalty Coordinator)
<input type="checkbox"/>	CA St Pub Defender (Calif. State PD)
<input type="checkbox"/>	Case Asgmt Admin (Case Assignment Administrator)
<input type="checkbox"/>	Catterson, Cathy (9 th Circuit Court of Appeal)
<input type="checkbox"/>	Chief Deputy Adm
<input type="checkbox"/>	Chief Deputy Ops
<input type="checkbox"/>	Clerk of Court
<input type="checkbox"/>	Death Penalty H/ C (Law Clerks)
<input type="checkbox"/>	Dep In Chg E Div
<input type="checkbox"/>	Dep In Chg So Div
<input checked="" type="checkbox"/>	Fiscal Section
<input type="checkbox"/>	Intake Supervisor
<input type="checkbox"/>	Interpreter Section
<input type="checkbox"/>	PIA Clerk - Los Angeles (PIALA)
<input type="checkbox"/>	PIA Clerk - Santa Ana (PIASA)
<input type="checkbox"/>	PIA Clerk - Riverside (PIAED)
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<input type="checkbox"/>	PSA - Santa Ana (PSASA)
<input type="checkbox"/>	PSA - Riverside (PSAED)
<input type="checkbox"/>	Schnack, Randall (CJA Supervising Attorney)
<input type="checkbox"/>	Statistics Clerk
<input type="checkbox"/>	Stratton, Maria - Federal Public Defender

<input type="checkbox"/>	US Attorneys Office - Civil Division -L.A.
<input type="checkbox"/>	US Attorneys Office - Civil Division - S.A.
<input type="checkbox"/>	US Attorneys Office - Criminal Division -L.A.
<input type="checkbox"/>	US Attorneys Office - Criminal Division -S.A.
<input type="checkbox"/>	US Bankruptcy Court
<input checked="" type="checkbox"/>	US Marshal Service - Los Angeles
<input type="checkbox"/>	US Marshal Service - Santa Ana
<input type="checkbox"/>	US Marshal Service - Riverside
<input checked="" type="checkbox"/>	US Probation Office
<input type="checkbox"/>	US Trustee's Office

<input type="checkbox"/>	ADD NEW NOTICE PARTY (* print name and address below):
<hr/> <hr/> <hr/>	
<p><i>* Print name & address of the notice party if this is the first time this notice party is being served through Optical Scanning. Print ONLY the name of the notice party if documents have previously been served on this notice party through Optical Scanning.</i></p>	

<input type="checkbox"/>	JUDGE / MAGISTRATE JUDGE (list below):
<input type="checkbox"/>	
<input type="checkbox"/>	
<input type="checkbox"/>	
<input type="checkbox"/>	

Initials of Deputy Clerk 

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:07-HC-2198-FL

UNITED STATES OF AMERICA)	
)	
Petitioner,)	
)	ORDER
v.)	
)	
WILLIAM THORNS,)	
)	
Respondent.)	

The Court has considered Petitioner's Motion for Voluntary Dismissal and the Settlement Agreement entered into between the parties. The United States, the Respondent, and Respondent's counsel have each personally affirmed in open court that the terms and conditions of the settlement agreement have been entered and undertaken knowingly and voluntarily after having adequate opportunity to seek counsel. The Court finds as a fact that the parties knowingly and voluntarily entered into the Settlement Agreement.

IT IS HEREBY ORDERED that pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure and for good cause, this action is DISMISSED.

IT IS FURTHER ORDERED that the stay of Respondent's release from Bureau of Prisons custody is lifted, and Respondent is ordered to be released from Bureau of Prisons custody. As set

out in the criminal judgment in the matter of United States of America v. William Thorns, in the United States District Court for the Central District of California, Docket No. CR-01-00959-SVW, on January 16, 2003, the Respondent shall report to the probation office in the Central District of California within 72 hours of his release.

This the ____ day of September, 2011.

LOUISE W. FLANAGAN
Chief United States District Judge